

# Tribal Participation In The TFW Agreement



## *Introduction*

More than 10 years ago, the tribes and other stakeholders in Washington's forest resources agreed to find common ground for responsible natural resource management instead of waging costly and lengthy battles in the courts to resolve their differences. The result was the unprecedented Timber/Fish/Wildlife (TFW) Agreement. For the past nine years, the tribes and tribal organizations in Washington state have participated in the TFW Agreement along with the timber industry, state and local governments, recreational, and environmental groups.

Tribal participation is a critical component of TFW. The tribes offer a centuries-old tradition of resource stewardship, practice state-of-the-art technological innovation and are strategically located to respond to the critical management needs of our watersheds.

The 1996 TFW accomplishments noted in this report demonstrate the positive impacts that tribal TFW programs, in concert with other TFW co-operators, are having on rule-making and resource protection on federal, state and private forest lands. The tribes also are involved in implementation of the President's Forest Plan, the Endangered Species Act (ESA), Habitat Conservation Plan (HCP) development, federal and state watershed analysis, and continued review and monitoring of local and individual forest practice applications.

## Challenge and Change

TFW has sustained attempts by some to circumvent its process of developing forest practice policy with meaningful consensus and public participation. State legislation was enacted to provide regulatory relief to landowners who had completed a federally approved HCP, negotiated to address federal ESA concerns. The legislation effectively preempted the TFW process of addressing concerns that extend beyond sustaining minimum viable levels of particular species. The TFW process provided a meaningful forum to air concerns over this issue and was determined to be the preferred mechanism for resolving forest practice issues. After reaching consensus there was agreement to discuss divergent issues and seek resolution through the voluntary TFW process, the goal being to implement a state system of landscape planning that would result in regulatory certainty and provide long term habitat protection and restoration.

TFW has been additionally challenged by the myriad of activity concerning land use activities: Federal Endangered Species Act initiatives, State Growth Management Act, regulatory reform, legislation concerning water and property rights, and litigation. Tribal, state and federal agencies, local governments, environmental groups and industry technical and policy staffs are pressed to be engaged in these initiatives while being confronted with budget cuts and special interests. TFW co-

operators had reached the point where it became difficult to resolve issues in a consensus manner due to conflicting priorities and workloads as well as disagreement at the technical and policy levels. Caucus leaders agreed that TFW was the forum of choice but that changes would need to be made to address the difficulty of working in today's more pressing environment, requiring more efficient use of resources and the willingness to make ever more difficult decisions. The caucuses contributed funds toward hiring a TFW staff to coordinate the activities of the TFW Policy Committee, the newly created TFW Operations Committee, and the various technical committees and workgroups. The TFW Operations Committee was created to provide a level of interchange between the technical and policy level that reviews and negotiates issues, work products, and assignments as they are passed between the levels, to explicitly define the issues and work assignments, the caucus positions, where consensus exists, where more technical work needs to occur, and where a policy decision needs to be made.

Despite these increased tasks, the tribes continue to address mainstream TFW issues at the policy and technical levels. Changes in current forest resource management practices also increased work for the tribes. In 1996, the tribes continued their role implementing mandates and regulations for watershed analysis (WSA), which addresses cumulative effects, as well as wetland and wildlife protection.

For the tribes, a primary component in the success of TFW has always been the cooperative decision-making process. This consensus-based approach has empowered the tribes and acknowledged their management authority regarding forest practices management. The tribes have demonstrated their ability to establish and maintain a cooperative process for the management of forest resources while incorporating tribal concerns.

Further, the ESA triggered a need for the state to establish regulations protecting Northern spotted owl and marbled murrelet habitat. This deflected the goal of TFW from developing a landscape management approach to satisfy temporary, stop-gap measures of species-by-species management planning. Again, this issue was accommodated by TFW and agreed-upon language was provided to the state Forest Practices Board while participants also re-committed to the development of more comprehensive wildlife protection through landscape management.

## Local Control And Partnerships

The TFW Agreement continues to be a successful cooperative natural resource management process that addresses forest practices on state and private lands in the State of Washington. TFW is a dynamic process providing real, on-the-ground protection for fish, wildlife, water quality and other natural resources while assuring long-term stability and certainty for the timber industry. Stability and certainty are achieved through conditions of greater flexibility and predictability of responsible forest management regulations.

The success of TFW is built on open participation, commitment, and development of partnerships among treaty Indian tribes, state and federal

agencies, county and local governments, the timber industry, environmental organizations and the public. TFW is a “win-win” process increasing the understanding of the forest-based economy of Washington while also protecting the environment and natural resources on which the tribes and all residents of the state depend.

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The strategic locations occupied by the tribes within key watersheds throughout the state provide a safety-net for local resource protection. The TFW partnerships and network of cooperation not only affords more efficient and effective management of federal forest and habitat protection, but also consolidates federal regulatory requirements with its trust obligations to tribal treaty rights.

The timber industry’s long-range goals of economic stability, renewable resources, and regulatory certainty are

shared by the tribes, who view industry as a long-term partner in forest management. Through TFW, the timber industry has recognized its impact on water quality, fish and wildlife habitat, and other resources on which the tribes rely for their economic, cultural and spiritual survival. Industry has demonstrated its support for TFW through field and oversight participation and in support of forest practices regulations that have resulted in a greater commitment to maintaining jobs and long-term investments.

Cooperative, consensus-building processes such as TFW rely upon the participation of all parties with an equal footing. The tribes are an integral part of the continued process. This has decreased confrontation and increased mutual understanding while avoiding costly litigation. Further, the industry realizes that cooperative resource management results in economic vitality and environmental health. Ultimately, everyone benefits from rational management of our water quality, timber, fish and wildlife that contribute to the overall health and diversity of our ecosystem.

Tribal and state representatives worked hard to have the federal forest management process consider the accomplishments of TFW and integrate its approach into the federal process. An area of significant integration is the consistent, compatible development and use of watershed analysis, required on the federal level, but only encouraged on the state level. If the state process is initiated, the results have the weight of regulations on future forest practices, whereas the federal process, while required, is not yet applied consistently from forest district to forest district.

Another difference that may be rectified is the inclusion of a wildlife component in the federal process, while the state’s process has not yet

established one. TFW is in the process of developing a “landscape management” approach to meet both the watershed analysis and ESA requirements.

### Strategic Goals in Common

TFW matches the collective experience and expertise of participants in a consensual decision-making process. Foremost, it is an organic process that yields to an ever-changing natural environment. Participants understand and encourage evaluation and modification of the TFW Agreement to the extent that changes improve forest practices. Experience will determine if the needs of the parties are being met. This is the Adaptive Management system that supports monitoring and evaluation of the effectiveness of the process. The results of this Adaptive Management system produces solutions that are politically, legally and technically feasible. Following are the five goals that all TFW participants embrace:

- ❖ Provide the greatest diversity of species and habitats for wildlife on forest lands;
- ❖ Provide long-term protection of habitat productivity for wild fish stocks;
- ❖ Protect the water quality needs of people, fish and wildlife;
- ❖ Inventory, evaluate, preserve, protect and ensure tribal access to traditional cultural and archeological sites in forest lands; and
- ❖ Assure sustainable growth and development of the state’s forest products industry.

TFW was envisioned from the ground up rather than from the top down. The TFW process is embodied in a set of ground rules based on its goals, a decision-making approach and acceptance of the concept of Adaptive Management. All committees at the policy and technical level work toward consensus decisions.

The Northwest Indian Fisheries Commission (NWIFC) acts as a central clearinghouse and facilitator for these decisions. The NWIFC provides an organizational base to deal with uncommon issues and needs. The tribes and the NWIFC then coordinate with other TFW participants, which include the state departments of Natural Resources, Ecology, Fish and Wildlife, and Labor and Industries; Washington Environmental Council; National Audubon Society; private forest landowners; county and local governments, and federal agencies.

The advantages of this type of process and structure are threefold. First, it provides a broad base of local par-

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ticipation for all parties, including each tribal government involved in the process. Second, it provides tribal and local governments with flexibility to address regional and political differences. Third, this process and structure is efficiently based without a top-heavy bureaucratic response that is costly and slow to react to environmental problems.

### 1996 Sample Accomplishments

Following is a synopsis of individual and cooperative tribal TFW activities:

The revised TFW operational structure was instrumental in completing the work needed to develop revised Forest Practice Rules to establish stream type designations which more accurately define fish-bearing waters. Existing Forest Practice Rules had established default physical criteria for identifying fish-bearing waters, with an agreed-upon process for upgrading streams that were erroneously identified as non fish-bearing, according to the Forest Practice Rules default criteria. The riparian management zone (RMZ) prescriptions are dependent upon stream type designation, and the potential for applying appropriate RMZ practices was being limited due to the many fish bearing streams being classified as non fish-bearing. Tribal stream typing verification work documented that in some areas more than 70 percent of streams classified as non fish-bearing were incorrect, and that many fish-bearing streams were not even included on stream type maps.

The TFW group developed a proposed emergency rule that went to the Forest Practices Board for adoption, and also developed a work plan to address additional RMZ and water qual

ity concerns. The goal of the work plan is to develop a permanent rule package that would provide a comprehensive solution to regulation of forest practices to protect and manage streams and uplands in a manner that will address ESA habitat management concerns and meet the needs of the respective caucuses. The tribal goal is a sustainable fish, wildlife, and plant community resource base that provides for the cultural, subsistence, and economic needs of the tribal community, while maintaining the forest land base as an economically sound enterprise which provides for tribal co-management, access, and harvest of resources for cultural, subsistence and economic benefits.

Related to the stream and upland management concerns, the TFW technical groups also completed reports on pesticides, stream temperature and regulatory compliance. These reports identified issues and proposed management recommendations. Water Quality Module Version 1.0 was also completed to be incorporated into the Watershed Analysis Manual.

Watershed Analysis continued to be a major focus of TFW cooperators. Watershed Analysis was completed on 14 Watershed Analysis Units (WAU); work continued on another 13 ongoing WAU's, and Watershed Analysis was initiated on 20 WAU's. Watershed Analysis provides an evaluation of habitat concerns and provides prescriptions for protection and restoration of critical habitat.

Monitoring is an essential element of current management in order to evaluate if regulations, management practices, and restoration efforts are achieving the stated goals. Monitoring standards and procedures were developed to provide a consistent data-

base of useful information that can be used with confidence by field managers, watershed analysts, and policy maker. Extensive training has been developed by and provided to TFW co-operators to ensure consistency on standard data collection methods, quality assurance, and Watershed Analysis. Manuals are also developed and provided to cooperators.

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The tribes have been active and in many cases have assumed a leadership role in all of these activities. Tribes are also active on a day-to-day basis reviewing forest practice applications (FPA), hydraulic permit applications, and participating in interdisciplinary team meetings on specific FPA's. Tribes are also actively engaged in a number of stream restoration projects, which include bank stabilization, large woody debris placement, stream blockage removal, and natural vegetation planting. Tribal work on stream typing was the primary justification on revising the Forest Practice Rules on stream type designation.

## Tribes and Tribal Organizations Participating In TFW:

Chehalis Tribe, Colville Confederated Tribes, Hoh Tribe, Jamestown S'Klallam Tribe, Lower Elwha Klallam Tribe, Lummi Nation, Kalispel Tribe, Makah Tribe, Muckleshoot Tribe, Nooksack Tribe, Nisqually Tribe, Port Gamble S'Klallam Tribe, Puyallup Tribe, Quileute Tribe, Quinault Indian Nation, Sauk-Suiattle Tribe, Shoalwater Bay Tribe, Skokomish Tribe, Spokane Tribe, Squaxin Island Tribe, Stillaguamish Tribe, Suquamish Tribe, Swinomish Tribe, Tulalip Tribes, Upper Skagit Tribe, Yakama Indian Nation, Northwest Indian Fisheries Commission, Point No Point Treaty Council, and Skagit System Cooperative.

The involvement of the tribes and the TFW cooperators in a common enterprise is a remarkable achievement. This process for integrating timber, fisheries, wildlife, water quality and cultural resources is unprecedented in the history of natural resource management. The tribes are committed to TFW because it offers the best chance for the success necessary to sustain the viability of timber, fish and wildlife resources for the benefit of generations to come.

## *For More Information*

For more information about the natural resource management activities of the treaty Indian tribes in western Washington, contact the Northwest Indian Fisheries Commission, 6730 Martin Way E., Olympia, WA 98515; or call (360) 438-1180. The NWIFC home page is available on the World Wide Web at <http://mako.nwifc.wa.gov>.